

**Minutes  
of the  
Second Meeting  
of the  
Los Alamos National Laboratory Oversight Committee  
Room 309, State Capitol  
July 12, 2004**

The second meeting of the Los Alamos national laboratory oversight committee was called to order on July 12, 2004 at 10:25 a.m. by Representative Roberto "Bobby" J. Gonzales, chairman, in Room 309, State Capitol.

***Present were:***

Rep. Roberto "Bobby" J. Gonzales, co-chairman  
Sen. Phil A. Griego, co-chairman  
Rep. Thomas A. Anderson  
Rep. Debbie A. Rodella  
Rep. Nick L. Salazar  
Sen. William E. Sharer

***Absent was:***

***Advisory members:***

Rep. Ben Lujan  
Sen. Richard C. Martinez  
Rep. Jeannette O. Wallace

Sen. William H. Payne

***Staff:***

Jonelle Maison  
Jennie Lusk

***Guests:*** A copy of the guest list is in the meeting file.

A copy of all handouts is in the meeting file.

***Committee business:*** The December 9 and 10, 2004 meeting was not approved by the legislative council, and the committee selected November 12, 2004 for its last meeting. The next meeting is in Espanola and Los Alamos on August 9-10, 2004.

***Los Alamos National Laboratory Progress Report — Admiral G. Peter Nanos, Director***

Admiral Nanos began his presentation by discussing the recent incident of misplaced classified media. There have been other incidents in the recent past, two of which were inventory control issues and one that is still being investigated. Admiral Nanos said the current incident was created by people who display a willful disregard for the lab's safety and security rules. He said the lab is extremely serious about seeing that security rules are followed and he will consider the full range of disciplinary options available, including termination. He stressed

that if employees cannot handle classified material correctly, they cannot work at the lab. Employees can no longer have a cavalier attitude about security, and he has notified all employees that he will not abide those who will not follow the rules that promote safety and security.

In line with LANL's national security mission, the nuclear weapons program has been reorganized to reduce span of control, increase management support and distribute work more evenly. By reprogramming funding, the program is doing well without having to request increases. As part of its national security mission, the lab has increased its efforts and staff related to threat reduction, including terrorism and biowarfare. The director has hired a new chief science officer, whose name will be announced shortly. The position has been restructured to create a closer rapport with other scientists, and he is asking a lab scientist to step in to help build a team that will work to recruit and retain scientists.

There has been a significant turnaround in purchasing and management controls. The lab now ranks in the upper one-half of management standards.

Admiral Nanos reported that he is looking for opportunities for economic development and the lab is trying to broaden its view of where to spend its community outreach funding. He is also seeking a broader view of LANL business opportunities, including venture capitalism and technological spin-offs. Community partnerships are decided on a case-by-case basis. As for educational outreach, LANL is expanding its very successful math and science academy for public school teachers. The program was started in 2000 with 12 middle school teachers in three districts: Chama, Espanola and Mora; now it serves 89 teachers in five districts, including Pojoaque and Taos. LANL is working more closely with New Mexico colleges and universities, and has signed memoranda of understanding with NMHU, UNM, NMSU and NMIMT. The agreements include funding of \$500,000 per institution, plus other specific project funding. Admiral Nanos and Dr. Maestas of NNMCC have had serious discussion about the school establishing a four-year degree-granting program and developing cooperative education programs in conjunction with the lab so that students can develop the necessary skills and experience before seeking permanent employment with the lab.

Admiral Nanos noted that LANL is proud of its scientific accomplishments in spallation neutron research; bioforensic procedures; hepatitis C database; new light technology; monitoring and defense against AIDS; space exploration; and pit production, which has ceased in the United States. LANL won five R&D 100 awards and the lab or its scientists won several important awards, including 2004 Asian American National Engineer of the Year and an award from the national society of Black engineers.

Admiral Nanos spoke briefly on the need to modernize and consolidate lab infrastructure and reduce costs. Too many buildings are underutilized or too expensive to maintain and operate, while some functions are housed in unsafe and cramped facilities. LANL has identified approximately one million square feet of buildings to be eliminated or replaced.

All in all, Admiral Nanos reported, there has been steady progress made at LANL and it will work its way through momentary setbacks.

On questions from Representative Salazar, Admiral Nanos said he was very much in favor of a cooperative education program at NNMCC, in which students would have a semester of intense classwork and a semester of work at the lab. The program will allow people who already know LANL's work environment and who already have been given clearances to be productive immediately upon graduation. He reported that the university of California-San Diego has opened a master's curriculum in electrical engineering at LANL, which will be open to people inside and outside of the lab.

In answer to Representative Salazar's questions regarding technical assistance for surrounding communities, Admiral Nanos said that under the new contract there will be money set aside to assist communities. There are two possible funding sources for technical assistance: approval by DOE or funding from the UC fee, which is about \$8 million. However, until the competition is decided, he thinks the UC fee will not be available as a funding source. Last year, much of the fee went to audits; this year, UC will have to pay the costs of the competition.

★ Representative Rodella announced that she had met with California Senator Denise Moreno Ducheny, who was in Santa Fe for the border conference last Friday, and the California oversight committee is interested in scheduling a joint meeting. She requested that staff send a set of handouts to Senator Ducheny's staff. Representative Rodella expressed concern about what happens when LANL employees complete lab-paid education, and she faulted the lab for its failure to track those employees. Admiral Nanos said that LANL is very generous in providing educational opportunities, but finding a job commensurate with one's education is the responsibility of the employee. He noted that education is not the only criterion for career advancement, that the lab does not serve *in loco parentis* and that it does not provide career-ladder jobs.

Speaker Lujan initiated a discussion of LANL's critical skills needs within the next five years and the lab's efforts to ensure that it will have a trained work force in New Mexico from which to draw. He noted the importance of working with state schools to prepare job candidates for available jobs.

★ Speaker Lujan requested that LANL provide a budget and a breakdown of school districts, schools and participants in the math and science academy.

On further questions from Speaker Lujan, Admiral Nanos said that LANL has met with the unions and has stopped hiring or employing noncertified people in certified jobs. He is also working to shut down the cottage industries that have grown up at the lab. Speaker Lujan expressed his concerns about unskilled workers performing skilled work, particularly on electrical or mechanical systems. He discussed Midwest Drywall, a Kansas company he had heard was not providing employee benefits, but was classifying its workers as independent contractors to circumvent having to pay federal and state taxes, workers' compensation and

licensing. He also noted that the company is using out-of-state labor instead of hiring in-state. He said the lab needs to look at its subcontractors, particularly those that are not providing benefits.

★ Speaker Lujan suggested that the committee look at these kinds of labor issues during this interim.

Senator Martinez expressed his support of LANL's educational outreach through the math and science academy and its agreements with post-secondary schools, and he encouraged other area legislators to help win state funding for the academy. Turning to economic development, he asked for further comment on the director's desire to broaden the lab's partnerships with northern New Mexico businesses and how competitive small business can be for lab contracts. Admiral Nanos said he had appointed a business advisory council made up of prominent business people in the state to advise on the effectiveness of lab business practices and how they affect regional businesses. He wants to have the broadest possible communications with New Mexico businesses. There are both restraints and opportunities in lab procurement, and he recognizes that LANL needs northern New Mexico to provide goods and services, so he is always looking for small business set-asides. On further questioning, Admiral Nanos said that some procurement is not under the control of the university of California and so he cannot guarantee small business participation in those contracts, e.g., clean-up efforts, because he is not part of the procurement.

Senator Sharer asked about security and the reasons for continuing security breaches. Admiral Nanos said he was angry at the handling of the Wen Ho Lee case and that the lab should not have allowed outside forces to put national security secrets at risk. Since he has taken over, he said, there have been four incidents, two that were minor in that they were clerical errors, and two that were far more serious because they bespoke a cavalier attitude. The impact of the action taken by management will be much more profound, particularly for the latest incident. Admiral Nanos said there are employees who refuse to follow security rules and who seem to think that "they can't fire us all". He said they would find that if need be, he will fire them all. He said it is not a question of whether the university of California will manage the lab or some other contractor will; the issue is a culture that must change. The division in which the incident occurred is shut down and the employees of that division will not touch another classified document until he is sure they can do it and follow security protocols. He promised to inform the committee at the next meeting whether his discipline worked.

Senator Sharer questioned LANL's plan to close one million square feet of facility space. The director explained that the identified space, approximately one-ninth of the lab's overall space, is too outdated to be useful. The one million figure does not represent a net loss of space, because there are other facilities being planned or built that will replace some of that.

Senator Griego congratulated the director on building relationships with the universities, particularly Highlands. In discussing the planned nuclear enrichment plant in southeast New Mexico, he recommended that LANL take steps to work with LES, the company proposing the

project. Senator Griego asked how the lab was proceeding with regard to the DOE RFP and what would happen to retirement and other benefits offered by the university of California in the event that another contractor is selected. Admiral Nanos replied that DOE has said that it will protect retirement benefits, though that may not mean there will be no changes. He noted that currently, employees do not make retirement contributions because the university is so well-endowed.

On further discussion of transition concerns, Representative Wallace noted that other laboratories have changed contractors, and it would be important to track how those changeovers were implemented.

### ***Minutes***

Speaker Lujan asked that the minutes of the last meeting be changed to reflect that he and Representative Rodella raised points concerning employment issues at LANL. He said the committee should not lose sight of the reason the committee was created, which was to look into employment and promotion practices at the lab. Representative Rodella said she wanted to ensure that there will be public comment at the end of each meeting and that there would be follow-up on points or questions raised during presentations or comments. She also said there were errors in the Welch report that the committee did not have time to discuss last year and she wants to hear further testimony and public comment on that report. Speaker Lujan concurred that the committee needs to require follow-through on information provided to it.

Representative Gonzales reminded the committee that it needs to be careful not to stray into areas under litigation. He suggested that there should be procedures or ground rules for people who want to provide public comment. Representative Rodella agreed. Senator Sharer's motion to approve the minutes was withdrawn, and the minutes will be considered at the next meeting.

### ***Department of Energy National Laboratories Planning — Charles S. Tyler Przybylek, General Counsel and Chief Operating Officer, National Nuclear Security Administration (NNSA), and Mr. Ed Wilmot, Los Alamos Site Manager***

Mr. Przybylek introduced Mr. Wilmot, manager, NNSA Los Alamos site office, and said he is the chief federal official at LANL, and is responsible for risk acceptance and contracts as well as the person who can bind the federal government in agreements. He was also joined by Betty Romero, whose tasks include community outreach and developing corporate initiatives.

Mr. Przybylek began his presentation with an overview of NNSA and its structure. The agency was established as a separate organizational agency within DOE three years ago. In December 2002, the Albuquerque DOE office was converted to a service center, which is no longer in the line of authority, and the Los Alamos site manager reports directly to Mr. Przybylek in Washington. He described his job as connecting the field and national structures.

The LANL budget for federal FY04 is \$1.65 billion and is expected to rise to \$1.76 billion for FY05. It has approximately 11,000 employees. Speaker Lujan asked why

employment is expected to decrease next fiscal year as the budget is expected to increase. Mr. Wilmot said the budget is still in congress and there are significant differences in the house and senate versions that reflect major policy differences. The numbers provided to the committee are estimates, but part of the increase includes funding for facilities upgrades and a significant deficit.

Representative Salazar asked about the requirements for environmental impact statements (EIS) on the site selection for proposed pit production. Mr. Przybylek said it depends on which version of the appropriation bill passes. If the house version passes, there is language that prohibits the use of appropriated funds to make the decision. In that case, either DOE will accelerate the program or it will have to wait for October 2006. The preliminary EIS will satisfy EPA and federal law; once a state is selected, the state is not excluded from requiring an EIS for the facility.

Mr. Przybylek and the committee also discussed LANL's contributions in areas of data analysis; radiation monitoring; space exploration; and facility design for plutonium conversion in Russia when an agreement between the United States and Russia is signed. Representative Anderson asked for clarification on the bullet in the written presentation about training future nuclear deterrent stewards. Mr. Przybylek answered that the lab must recruit and retain the next generation of scientists.

Mr. Przybylek said that Admiral Nanos has done outstanding work in satisfying DOE that taxpayer money is being spent appropriately. There have been major systemic changes in requisition, procurement and property management, and the lab has made great strides. He reported that while LANL has worked hard to significantly enhance the security posture throughout the lab, there are still security issues to be addressed. TA-18 is not secure enough; early decisions for remote siting make it difficult to secure the area today. DOE is working with LANL to move SNM to other locations, improve storage vaults, upgrade perimeter alarm systems, increase the number of armed responders and provide aggressive force-on-force training. As well, the lab needs to meet new requirements of the design basis threat, address recent issues with classified removable electronic media and continue work on the nuclear materials safeguards and security upgrade project.

On questions from Representative Salazar concerning community assistance, Mr. Przybylek said there are very specific rules in federal contracts regarding allowable costs. Essentially, for costs to be allowable, they must connect directly with the mission and successful completion of the contract. The question is how far afield can the contractor go. Under the LANL contract, there is \$2 million for the LANL foundation, \$500,000 for educational assistance, \$500,000 for community assistance and outreach and \$1 million for technology transfer. Representative Salazar said it would not take very much to assist communities with things such as traffic studies or water availability modeling and the lab loses credibility as a good neighbor when it seems to promise assistance but does not deliver. He said that if the lab cannot provide services, it should be up front with the communities and say that it cannot. Mr. Przybylek said he understands the principles of the questions, but he does not have a firm

answer. The director may have to decide on a case-by-case basis what qualifies for community assistance. He asked if LANL has a defined avenue for the discussion with communities to occur; he wondered how the lab finds out that Espanola wants traffic modeling. He also said that the \$500,000 is not a cap and that there are a number of ways in which technical assistance can occur: (1) LANL and DOE may decide that a project fits under allowable cost; (2) the university of California might have the capability outside the contract to provide the assistance; or (3) the university fee might be tapped.

★ Speaker Lujan asked that LANL show proof that community outreach is being done. He explained to the committee that under the reduction-in-force (RIF) agreement, there was a commitment made for a certain time for education and community outreach to make up for the economic impact of the RIF. He said the governor has talked to LANL and the university of California personnel and that if the university gets the contract it has promised more outreach; if someone else gets the contract, this requirement needs to be added to the contract.

On remarks by Representative Gonzales, Mr. Przybylek said that the lab's relationship to surrounding communities is part of the evaluation process. DOE asked the national academy of sciences for its opinion of what the department should look for in an offeror, and one major recommendation was that the relationship between the lab and surrounding communities has to be understood thoroughly by each responsive offeror. As for expressions of interest, there have been 10 or 11 notifications so far; most have been small companies that want to partner with bigger entities.

Representative Salazar said that he hoped science is the number one priority for the new contract. On further questions, Mr. Przybylek said the schedule is that the RFP will be issued in the fall of 2004, responses would be evaluated in the spring of 2005 and the decision would be made in June 2005. That would give a 90-day transition to October 1, 2005, when the new contract would take effect. The draft contract will be on the DOE web site and the department wants public comment on the RFP and contract.

★ The web site for information about the RFP and contract provisions is [www.doeal.gov/LANLContractRecompete/Default.htm](http://www.doeal.gov/LANLContractRecompete/Default.htm).

Senator Griego and Representative Salazar raised questions about the protection of employee benefits. Mr. Przybylek said the 1996-1997 contract included the transfer of employee benefits and provides for current beneficiaries. Transition requirements, such as the transfer of employee benefits, will be part of the evaluation process.

Representative Gonzales asked about the weight factor for employee benefits on the evaluation. Mr. Przybylek replied that the source evaluation board, of which he is the chairman, is looking at two ways of handling the issue: either assign points or put an absolute guarantee in the contract.

Representative Salazar asked if the tax issue is of any concern to DOE. Mr. Przybylek

said that would not be part of the evaluation.

★ Speaker Lujan requested a copy of the current contract's provisions for safeguarding retirement benefits. He stressed that he hopes experience and stability will be considered when evaluating responses. He added that by and large, the state supports the university of California and he hopes that the best interests of national security, not politics, will be the guiding principle when selecting the contractor. The speaker expressed his appreciation for the informative presentation and Mr. Przybylek's candid answers.

On further questions regarding community assistance, Mr. Przybylek said that NNSA will evaluate any proposals of what makes the lab a good citizen.

With regard to the discussion on employees, Senator Sharer offered the analogy of professional baseball, in which millions of people want to be major league players, but there are only about 1,200 players. However, there are many other jobs in professional baseball, from hotdog vendors to umpires, that are needed to carry out the mission. Furthering the analogy, he said that at LANL, the scientists are like the players and all the other jobs are like the support personnel in baseball. He opined that New Mexico should also be considering how it can field lawyers, purchasing agents and others to support the major league scientists. Representative Salazar remarked that New Mexico is not doing too badly, since it has the highest numbers of PhD's at LANL. Representative Gonzales added that this is why educational outreach is so important.

★ Staff was directed to prepare ground rules for public comment at the August meeting and provide them to the chairman for his approval.

The next meeting of the committee is August 9 and 10 in Espanola and Los Alamos. There being no further business, the committee adjourned at 3:20 p.m.